

Unofficial Draft Copy

As of: March 8, 2017 (1:12PM)

LC2491

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act revising public safety communications laws; establishing a "Statewide Public Safety Communications System Act"; establishing a statewide public safety communications system administered by the department of justice; establishing principles and guidelines for the systems and administration by the department; establishing a statewide public safety communications system advisory council; allowing for the establishment of subcommittees; administratively attaching the advisory council and subcommittees to the department of justice; establishing the duties of an advisory council; establishing the duties of the department of justice to implement, maintain, and sustain a statewide public safety communications system; allowing the department to establish rates or charges for statewide public safety communications system services; allowing for the development of agreements between governmental agencies related to the statewide public safety communications system; requiring reporting to the law and justice interim committee and legislature; establishing a statewide public safety communications system account; granting the department of justice rulemaking authority;; amending sections 2-17-512, and 17-7-111, MCA; and providing an effective date."

WHEREAS, it is necessary, and it is the policy of the state of Montana to promote and encourage coordination of the statewide public safety communications system among state and local agencies, efficient planning and development of the systems, cost-effective deployment of the systems, and the sustainability of public safety communications technology and infrastructure in the state to provide for the safety of its citizens and emergency responders and for the protection of public and private property;

WHEREAS, the legislature recognizes that consistency, continuity, and cost-effectiveness is needed to sustain the existing statewide public safety communications system to protect public and private property and to promote the safety of Montana's citizens and emergency responders; and

WHEREAS, it is necessary to ensure cost-effective long-term solutions for delivering efficient statewide public safety communications;

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the " Statewide Public Safety Communications System Act ".

NEW SECTION. **Section 2. Findings -- intent.** (1) Montana

finds that the continued planning and development of a unified statewide public safety communications system in the state must be conducted in an organized, deliberate, and cost-effective manner.

(2) It is the intent of [sections 1 through 9] to guide future planning for and efforts to sustain the statewide public safety communications system by:

(a) creating and communicating operational recommendations and guidelines applicable to all state agencies and other entities using the statewide public safety communications system to improve overall satisfaction with the communications systems, increase the adoption of recommendations and guidelines, and to set a benchmark for user expectations;

(b) developing a sustainable maintenance plan for statewide public safety communications system to ensure that the existing statewide public safety communications system remains operational and reliable;

(c) establishing a plan to fund upgrades, modifications, maintenance or migration of technology within the statewide public safety communications system;

(d) ensuring that public-private partnerships are used to expand, modify, migrate, operate and maintain the statewide public safety communications system in a cost-effective manner, to achieve the objectives and required functionality of the system;

(e) to the greatest extent possible, encouraging the use of

non-proprietary, standards-based and commercially available technology to allow a wide array of system options and cost-effective deployments;

(f) ensuring that the primary purpose of the statewide public safety communications system is to enable participating agencies to fulfill their respective missions, and not to implement a specific technology or standard; and

(g) requiring that future modifications, expansions, or migrations of the statewide public safety communications system is developed in cooperation with federal, state, tribal, and local governments and private industry with a goal to provide seamless access to mission critical voice, data, or both voice and data communications to the greatest extent possible.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 9], the following definitions apply:

(1) "Advisory council" means the statewide public safety communications system advisory council established in [section 4].

(2) "Department" means the department of justice established in 2-15-2001.

(3) "Public safety communications system" means a system used primarily by public safety agencies for transmitting and receiving voice, data, or both voice and data communications. The term includes, but is not limited to:

(a) the statewide trunked land-mobile radio system;

(b) statewide microwave network;

(c) any system interconnections that facilitate the operation of the public safety communications system.

(d) future governmental owned technology that enhances or replaces existing trunked land-mobile radio systems or microwave networks that are part of the public safety communications system.

(4) This definition does not include commercial wireless communication systems or commercial wired communication systems, including fiber optics or circuit based technology.

NEW SECTION. **Section 4. Statewide public safety communications system advisory council -- membership -- subcommittees.** (1) There is a statewide public safety communications system advisory council.

(2) Subject to subsection (8), the advisory council consists of 7 members appointed by the governor as follows:

(a) the attorney general or the attorney general's designee from the department, who serves as presiding officer of the council;

(b) a representative of the governor's office;

(c) a representative of the local law enforcement community;

(d) a representative of the fire protection community;

(e) a representative of the emergency medical community;

(f) a representative of local governments; and

(g) a representative of tribal governments.

(3) The advisory council may create temporary or permanent subcommittees, when necessary, to advise members of the council. Subcommittee membership, appointed by a majority of the advisory council, may include, but is not limited to:

(a) a representative of the Montana highway patrol;

(b) a representative of the department of transportation, maintenance division;

(c) a representative of the department of military affairs, disaster and emergency services division;

(d) a representative of the department of administration, state information technology services division;

(e) two representatives of the Montana association of counties, with one representing populations less than 30,000 and one representing populations greater than 30,000;

(f) two representatives of the Montana league of cities and towns, with one representing populations less than 30,000 and one representing populations greater than 30,000;

(g) a representative of the Montana sheriffs and peace officers' association;

(h) a representative of the Montana association of chiefs of police;

(i) a representative of the Montana state fire chiefs' association;

(j) a representative of the Montana state volunteer firefighter's association;

(k) a representative of the Montana emergency medical services association; and

(l) a representative of the Montana association of public safety communications officials.

(m) a representative of the Montana Department of Natural Resources and Conservation, Division of Forestry, Fire and Aviation Management Bureau

(4) The advisory council shall establish a technical subcommittee to advise subcommittees appointed in accordance with subsection (3) and the advisory council established in subsection (2) on subjects including, but not limited to:

(a) system maintenance and operational issues; and

(b) technology considerations as assigned by the advisory council.

(5) The advisory council and related subcommittees are attached to the department for administrative purposes only, as provided in 2-15-121.

(6) The advisory council shall at a minimum, within its budget, hold quarterly meetings.

(7) Advisory council members and subcommittee members shall serve without additional salary but are entitled to reimbursement for travel expenses incurred while engaged in council or subcommittee activities as provided for in 2-18-501 through 2-18-503.

(8) (a) Membership on the advisory council established in accordance with subsection (2) is limited to agencies or their

appointed representatives who use the statewide public safety communications system.

(b) Members shall work to improve and sustain the statewide public safety communications system within the state.

(c) Non-voting membership may include representatives who are employed by or consulting for potential vendors or represent business interests.

(d) This subsection (8) does not limit the ability of a vendor, consultant, or other individual representing a business to, by invitation, provide the advisory council with useful information.

(9) Vendors, consultants, and other individuals representing business interests may be appointed to a subcommittee formed in accordance with subsections (3) or (4).

NEW SECTION. Section 5. Statewide public safety communications system advisory council -- duties and responsibilities. (1) The advisory council shall:

(a) advise the department concerning future development and sustainability of the statewide public safety communications system;

(b) provide recommendations to the department for the continued funding of the statewide public safety communications system;

(c) provide recommendations to the department concerning the establishment of potential rates and other charges for use

of the statewide public safety communications system to sustain, expand, or both sustain and expand the system;

(d) advise the department in the development of statewide public safety communications system standards and policies; and

(e) advise the department on significant matters concerning statewide public safety communications system services in the state of Montana, including rulemaking in accordance with [section 9].

(2) The advisory council shall review the operations and funding of the statewide public safety communications system in Montana to ensure:

(a) efficient spending of public funds;

(b) statewide standards for use and access of the public safety communications system;

(c) leveraging, when and where it has been deemed operationally suitable and economically advantageous, existing commercial communications infrastructure; and

(d) overall operational efficiency, while not unreasonably limiting systems users in fulfilling their respective missions.

NEW SECTION. Section 6. Duties of the department. (1)

There is a statewide public safety communications system administered by the department.

(2) The department shall implement, sustain, and plan for the statewide public safety communications system within the limits of budget authority dedicated to the systems.

(3) The department shall:

(a) encourage and foster the development of new and innovative technology within the public safety communications system and ways to deliver public safety communications functions;

(b) promote and coordinate the sharing of statewide public safety communications system resources;

(c) establish and execute a long-term, fiscally sustainable, strategic plan for the statewide public safety communications system;

(d) establish and communicate policies and standards for the statewide public safety communications system;

(e) staff and cover the costs of the advisory council established in [section 4];

(f) operate and maintain the statewide public safety communications system for the use of state government, political subdivisions, and other participating entities under terms and conditions established by the department, within the limits of budget authority dedicated to the system;

(g) establish rates and other charges for statewide public safety communications system services provided by the department;

(h) ensure collection of any user fees is dedicated to the operation, maintenance, expansion, or any combination of operation, maintenance, or expansion of the statewide public

safety communications system. Proposed fees must be deposited in the account established in [section 8] and included in the department's budget;

(i) accept federal funds, gifts, grants, and donations for the purposes of [sections 1 through 6];

(j) accept county, tribal, and municipal funds provided for the operation, maintenance, deployment and expansion, or any combination of operation, maintenance, deployment or expansion of the statewide public safety communications system;

(k) at the department's discretion, accept a transfer of ownership for the existing statewide public safety communications system, subsystems or other assets or property from a county, tribal, or municipal government;

(l) establish agreements between governmental agencies that currently own, operate, or both own and operate infrastructure on the statewide public safety communications system. Agreements must, if applicable, recognize current network control points are owned and administered by a county and will remain owned and administered by a county;

(m) pursue funding opportunities that can be leveraged based on user participation;

(n) before September 1 of each year, report to the law and justice interim committee and to the legislature as provided in 5-11-210 on the statewide public safety communications system activities of the department; and

(o) represent the state before public and private entities

on matters pertaining to the statewide public safety communications system.

(4) The department may contract with qualified private organizations, foundations, or individuals to carry out the purposes of [sections 1 through 6].

(5) The department shall operate and maintain the statewide public safety communications system within the limits of budget authority dedicated to the system.

(6) Nothing in this Act shall be construed to provide the department with any regulatory authority or responsibility over any commercial business.

NEW SECTION. **Section 7. Statewide public safety**

communications system systems account. (1) There is an account in the state special revenue fund established in 17-2-102 to be known as the statewide public safety communications system account.

(2) There must be deposited in the account:

(a) money received from legislative allocations;

(b) a transfer of money from a state or local agency for the purposes of [sections 1 through 6];

(c) rates, charges, or fees collected by the department in accordance with [section 6(3)(h)];

(d) funds accepted in accordance with [section 6(3)(i) and section 6(3)(j)]; and

(e) a gift, donation, grant, legacy, bequest, or device

made for the purposes of [sections 1 through 6].

(3) There is an account in the federal special revenue fund established in 17-2-102 to be known as the statewide public safety communications system account. There must be deposited in the account money received from the federal government for the purposes of [section 1 through 6].

(4) Funds in either account created in this section may be used by the department for the purposes of [sections 1 through 6].

NEW SECTION. **Section 8. Rulemaking authority.** (1) The department may adopt rules necessary to implement [sections 1 through 7]. Rules may include provisions for:

(a) implementation of [sections 1 through 7]; and
(b) administration of the statewide public safety communications system in accordance with [sections 1 through 7];

(2) Rules must be adopted in accordance with the Montana Administrative Procedure Act provided for in Title 2, chapter 4.

NEW SECTION. **Section 9. {standard} Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION. **Section 10. {standard} Codification instruction.** [Sections 1 through 7] are intended to be codified

as an integral part of Title 44, and the provisions of Title 44 apply to [sections 1 through 7].

NEW SECTION. **Section 11. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 12. {standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 13. {standard} Effective date.** [This act] is effective July 1, 2017.

- END -